

11719-PAJ

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ARNOLD JACKSON,	:
	:
	Case Number:
Plaintiff,	:
	:
	07 CV 3320 (SHS)
-against-	:
	:
	<u>ANSWER</u>
WATERMAN STEAMSHIP CORPORATION,	:
	:
Defendant.	:
	:
	----- x

Defendant, by its attorneys, JUNGE & MELE, LLP, answering the Complaint, states and alleges upon information and belief as follows:

ANSWERING THE FIRST CAUSE OF ACTION

FIRST: Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs "1," "3," "4," "5," "6," "7," "8," "9," "10" and "17" of the Complaint.

SECOND: Defendant admits that it is a New York corporation, but except as so admitted, denies the remaining allegations contained in paragraph "2" of the Complaint.

THIRD: Defendant denies the allegations contained in paragraphs "11," "12," "13," "14," "15" and "16" of the Complaint.

ANSWERING THE SECOND CAUSE OF ACTION

FOURTH: Defendant repeats and re-alleges each and every admission and denial contained in paragraphs "FIRST" through "THIRD" of this Answer as if more fully set forth at length herein.

FIFTH: Defendant denies the allegations contained in paragraphs "18" and "22" of the Complaint.

SIXTH: Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs "19," "20," "21" and "23" of the Complaint.

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to state a cause of action or claims upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiff's alleged injuries, if any, are due to pre-existing conditions, accidents, events or plaintiff's own willful misconduct and/or willful concealment.

THIRD AFFIRMATIVE DEFENSE

If Plaintiff received any injuries or suffered from any illnesses or disabilities, as alleged in the Complaint, said injuries, illnesses or disabilities were caused solely by the Plaintiff's own contributory negligence or comparative fault, and were not caused or contributed to in any manner by the negligence of the Defendant, or an alleged breach of the warranty of seaworthiness of the vessel.

FOURTH AFFIRMATIVE DEFENSE

If the Plaintiff sustained any injuries as alleged, said injuries were caused by the fault, neglect or negligence of third-parties for whom the Defendant is not liable.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff failed to take reasonable steps to mitigate his damages.

SIXTH AFFIRMATIVE DEFENSE

For the convenience of the parties and witnesses, and in the interest of justice, this action should be transferred to the United States District Court for the Eastern District of Louisiana.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiff has reached or attained maximum medical improvement.

EIGHTH AFFIRMATIVE DEFENSE

Defendant will rely on the Collateral Source Rule in defending against Plaintiff's claims for damages.

NINTH AFFIRMATIVE DEFENSE

If Plaintiff sustained any injuries, which Defendant explicitly denies, said injuries were caused by risks incident to his alleged employment, which risks were assumed by Plaintiff, and for which Defendant is neither responsible nor liable.

WHEREFORE, Defendant respectfully demands that the Court enter judgment against the Plaintiff dismissing his Complaint, together with costs and disbursements to the Defendant as against the Plaintiff, and that the Court grant such other, further and different relief as the justice of the cause may require.

Dated in the City of New York on June 21, 2007

Respectfully submitted,

JUNGE & MELE, LLP
Attorneys for Defendant

/s/ Peter A. Junge

By: _____

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